

REMARKS

Summary Of The Office Action & Formalities

Status of Claims

Claims 1-11 are all the claims pending in the application. By this Amendment, Applicant is canceling claim 4, amending claims 1 and 6 and adding new claims 12-20. No new matter is added.

Claim to Foreign Priority

Applicant thanks the Examiner for acknowledging the claim to foreign priority and for confirming that the certified copy of the priority document was received.

Information Disclosure Statement

Applicant also thanks the Examiner for initialing the references listed on form PTO/SB/08 submitted with the Information Disclosure Statement filed on April 27, 2005.

Drawings

Again, Applicant thanks the Examiner for acknowledging and accepting the drawings filed on April 27, 2005.

Specification

The specification is objected to for the reasons set forth at pages 2-3 of the Office Action. Applicant is amending the specification to overcome these objections.

Claim Objections

Claim 6 is objected to for the reason set forth at page 3 of the Office Action. Applicant is amending the claim to overcome this objection.

Claim Rejections - § 112

Claims 1-11 are rejected under 35 U.S.C. § 112, second paragraph, for the reason set forth at page 4 of the Office Action. Applicant is amending the claims to overcome this rejection.

Art Rejections

1. Claims 1, 2, 5, 10 and 11 are rejected under 35 U.S.C. § 102(b) as being anticipated by Walker et al. (US 5,564,414).

2. Claims 1-5, 10 and 11 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Walker et al. (US 5,564,414) in view of Barberi et al. (US 6,327,017).

3. Claims 6-9 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Walker et al. (US 5,564,414) in view of Barberi et al. (US 6,327,017) as applied to claims 1-5, 10 and 11 above, and further in view of Langley et al. (US 2004/0097873).

4. Claims 1-11 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-8 of copending Application No. 10/532,073. As this is a provisional rejection, Applicants will take up this issue upon an indication of allowance of one or both applications.

Applicant respectfully traverses the art rejections.

Claim Rejections - 35 U.S.C. § 102

In rejecting claims 1, 2, 5, 10 and 11 in view of Walker et al. (US 5,564,414), the grounds of rejection state:

Regarding claims 1, 2, 5, and 10, Walker et al. discloses a fluid dispensing device comprising a body (12, 112) incorporating a dispenser orifice, a reservoir (13) containing the fluid, and a dispensing member (stem of MDI), the device being further characterized in that it comprises a dose indicator with an LCD

display means (column 7, lines 30-35) that displays the number of doses delivered to the patient (abstract). A switch controls the LCD screen such that upon actuation of the device by a user, the switch (135) creates an electric pulse and sends it to the counting device (130) to change the LCD display (column 7, lines 40-50). Therefore, no energy is required to keep the display unchanged and only a small electric pulse is required to change it.

Regarding claim 11, the dose indicator disclosed by Walker et al. is thin in structure (see figure 2A).

Office Action at pages 4-5.

Claim 1 recites that the indicator operates *without a battery*. Support for this feature can be found, for example, on page 5, lines 12-13 of Applicant's specification. This feature, in combination with the other features of claim 1 is neither taught nor suggested by the applied references.

In Walker et al, the indicator *requires a power supply* (see column 7, line 32; column 8, lines 58-60). It is also stated in Walker et al. (and the Examiner recognizes) that the power consumption is *reduced* when the counter device is not active (see column 8, lines 57-58). This disclosure clearly means there is still some power consumption by the device requiring a battery or other similar power supply.

Accordingly, Walker et al. does not disclose or suggest all the features of claim 1 and the Examiner is requested to reconsider the rejection of claim 1 and dependent claims 2, 5, 10 and 11.

Regarding Barberi et al. and Langley et al., neither patent teaches or renders obvious the claimed features.

In Barberi et al., there is no indication at all as to how the energy used to change a display is provided, and thus, even if one were to combine Walker et al. with Barberi et al., the combination would not result in all the features of claim 1.

Likewise, combining the above with the disclosure of Langley et al. would not result in all the claimed features, as Langley et al. discloses a motor that clearly ***requires a power supply***.

Thus, none of the cited references, even when combined, provide the claimed solution of an indicator operating without any battery.

In view of at least the foregoing, the claims are believed to be patentable.

New Claims

For additional claim coverage merited by the scope of the invention, Applicant is adding new claims 12-20. Claim 12 is allowable at least by reason of its dependency. Claim 13 is allowable at least because it recites that the ***electrical energy is generated*** by interaction between two physical portions of the device moving relative to each other. Claims 14-20 are allowable at least by reason of their respective dependencies.

Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

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